[JOINT COMMITTEE PRINT]

COMPARISON

OF

H.R. 4717
AS PASSED BY THE HOUSE
AND
AS PASSED BY THE SENATE

PREPARED FOR THE USE OF THE

HOUSE AND SENATE CONFEREES

BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This pamphlet has been prepared by the staff of the Joint Committee on Taxation for the use of the House and Senate Conferees on H.R. 4717.

The first part of the pamphlet summarizes the legislative history of the bill. The second part provides comparative descriptions of the provisions of H.R. 4717 as passed by the House on March 16, 1932, and of the provisions of the bill as passed by the Senate on December 16, 1981, together with summaries of present law and the revenue effects for the provisions. The third part shows comparative budget effects for the House and Senate versions of the bill.

I. LEGISLATIVE HISTORY OF H.R. 4717

Initial House version

As ordered reported by the House Ways and Means Committee on December 9, 1981 (H. Rept. No. 97-405, Dec. 14, 1981), and passed by the House on December 15, 1981,[1] H.R. 4717 contained three provisions: (1) one-year postponement of effective date for LIFO reserve recapture rule; (2) modification of net operating loss rule for the Federal National Mortgage Association; and (3) requirement for filing an information return relating to transactions under the safe harbor leasing provisions in the Economic Recovery Tax Act of 1981 (P.L. 97-34).

Finance Committee action

On December 14, 1981, the Senate Finance Committee authorized a committee amendment to be offered as a floor amendment to H.R. 4717 after that bill had been passed by the House. The committee amendment included the following:

(1) provisions identical to the three provisions of H.R. 4717 as ordered reported by the Ways and Means Committee (and as subsequently passed by the House), except that the committee amendment provision on information returns relating to safe harbor leases differed from the comparable House provision;

(2) provisions identical or comparable to five of the provisions of H.R. 4961, a bill which had been ordered reported by the House Ways and Means Committee on November 19, 1981 (H. Rept. No. 97-404, Dec. 14, 1981), and which bill subsequently passed the House on December 15, 1981; [2] and

(3) certain other tax provisions.

The provisions in the committee amendment which were the same as, or comparable to, five provisions which had been ordered reported by the Ways and Means Committee in H.R. 4961 related to: (1) rental of residences to family members and other business uses of residences; (2) awarding of attorney fees in tax litigation; (3) treatment of certain lending or finance businesses for purposes of the tax on personal holding companies; (4) two-year delay in application of net operating loss rules added by the 1976 Tax Reform Act; and (5) additional refunds relating to repeal of the excise tax on buses.

The committee amendment did not include provisions identical or comparable to other provisions of H.R. 4961 (as passed by the House), relating to modification of rules for acceleration of accrual of taxes; unemployment benefits paid to ex-Servicemembers; change in SSI accounting period; treatment of unnegotiated checks

[1] See 127 Cong. Rec. H9617-21 (daily ed., Dec. 15, 1981).
[2] See 127 Cong. Rec. H9607-17 (daily ed., Dec. 15, 1981).

under the SSI program; collection of administrative costs for non-AFDC child support enforcement; technical amendments to child support enforcement provisions in P.L. 97-35; and technical amendments to social services and foster care provisions in P.L. 97-35.

Senate floor action

On December 16, 1981, the Senate passed H.R. 4717, with amendments.[3] (Since the House-passed bill was not referred to the Finance Committee, there is no Finance Committee report on that bill.) The first Senate floor amendment was a committee amendment in the nature of a substitute.[4] This floor amendment was generally the same as the committee amendment authorized by the Finance Committee on December 14, but did not include provisions of the December 14 committee amendment relating to (1) rental of residences to family members and other business uses of residences; (2) postponement of effective date for 1976 Tax Reform Act rules on net operating losses; and (3) information returns relating to safe harbor leases.[5]

The Senate also adopted seven other floor amendments to H.R. 4717: (1) three-month delay in the effective date of certain 1980 Bankruptcy Tax Act rules relating to discharge of indebtedness in bankruptcy or insolvency; (2) provision for Medicare enrollment period for individuals formerly eligible for benefits under the Public Health Service Act; (3) limitation on the use of small-issue industrial development bonds; (4) amendments relating to use of certain amounts transferred to State unemployment funds (Reed Act), removal of age limitation for exclusion from FUTA of wages paid to student interns, and extension of exclusion from FUTA of wages paid to certain alien farmworkers; (5) amendments relating to mortgage revenue bonds; (6) reduction in the excise taxes on certain wagering; and (7) a technical amendment to the provision of the committee floor amendment relating to financing of the Reforestation Trust Fund.[6]

Also on December 16, the Senate requested a conference with the House on H.R. 4717 and appointed conferees (Senators Dole, Packwood, Wallop, Long, and Byrd of Virginia). The House did not act on H.R. 4717 as amended by the Senate prior to the sine die adjournment of the 97th Congress, 1st Session on December 16, 1981.

House floor action on bill as amended by the Senate

On March 16, 1982, the House concurred in the Senate amendment to H.R. 4717 with an amendment in the nature of a substitute (consisting of the text of H.R. 5836).[7]

The House-passed bill included the following:

(1) five tax provisions which previously had been passed by the House as part of H.R. 4717 or H.R. 4961,[8] and which were

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[3] See 127 Cong. Rec. S15577-15621 (daily ed., Dec. 16, 1981).

[4] The committee amendment adopted on the Senate floor was printed at 127 Cong. Rec. S15578-82 (daily ed. Dec. 16, 1981). A technical explanation of this floor amendment was printed at 127 Cong. Rec. S15587-97 (daily ed., Dec. 16, 1981).

[5] On December 16, 1981, provisions relating to these three topics were added by Senate floor amendments to H.R. 5159, the Black Lung Benefits Revenue Act of 1981 (subsequently enacted as Public Law 97-119).

[6] See 127 Cong. Rec. S15598-621 (daily ed., Dec. 16, 1981).

[7] See 128 Cong. Rec. H886-891 (daily ed., Mar. 16, 1982).

[8] See note 2, *supra*.

identical or comparable to five provisions of H.R. 4717 as amended by the Senate on December 16, 1981;

(2) a tax provision relating to modification of rules for acceleration of accrual of taxes, which previously had been passed by the House as part of H.R. 4961; and

(3) certain unemployment compensation and welfare provisions which previously had been passed by the House as part of H.R. 4961, and some of which had been included in H.R. 4717 as passed by the Senate.

The five tax provisions in the House-passed bill which previously had been passed by the House, and which were the same as, or comparable to, five provisions in H.R. 4717 as amended by the Senate, related to (1) one-year postponement of effective date for LIFO reserve recapture rule; (2) modification of net operating loss rule for the Federal National Mortgage Association; (3) awarding of attorney fees in tax litigation; (4) treatment of certain lending and finance businesses for purposes of the tax on personal holding companies; and (5) additional refunds relating to repeal of the excise tax on buses. The House-passed bill did not include the tax provisions of H.R. 4717 as amended by the Senate other than these five provisions.

Also on March 16, 1982, the House requested a conference with the Senate on H.R. 4717 and appointed conferees (Messrs. Rostenkowski, Gibbons, Rangel, Stark, Ford of Tenn., Conable, Duncan, and Frenzel).

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II. COMPARATIVE DESCRIPTIONS

A. Tax Provisions

1. One-year postponement of effective date for LIFO reserve recapture rule (sec. 102 of the House bill, sec. 101 of the Senate amendment, and secs. 336(b) and 337(f) of the Code)

Present law

Under provisions enacted in P.L. 96-223 (Crude Oil Windfall Profit Tax Act of 1980), a corporation which distributes its LIFO inventory to its shareholders as part of a partial or complete liquidation generally must "recapture" (recognize as ordinary income) an amount equal to its LIFO reserve (Code sec. 336). (The LIFO reserve is the difference between the cost of inventory valued by the LIFO method and the cost of inventory valued by the FIFO method.) Also, a corporation which sells its LIFO inventory in the course of a 12-month liquidation must recapture an amount equal to its LIFO reserve (sec. 337(f)). These rules apply to distributions and dispositions made pursuant to plans of liquidation adopted after December 31, 1981.

House bill

Explanation.—The House bill postpones for one year the effective date of the LIFO reserve recapture rule as enacted in P.L. 96-223. Thus, the new LIFO reserve recapture rule will apply only to distributions and dispositions made pursuant to plans of liquidation adopted after December 31, 1982.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $15 million in 1982, by $260 million in 1983, and by negligible amounts in 1984, 1985, and 1986.*

Senate amendment

Same as House bill.

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*This estimate is intended to provide representative averages during the forecast period and assumes no significant change in the incidence of acquisitions and liquidations that result in the recapture of LIFO inventory reserve amounts.

2. Modification of net operating loss rule for the Federal National Mortgage Association (sec. 103 of the House bill, sec. 102 of the Senate amendment, and sec. 172 of the Code)

Present law

Under provisions enacted in the Economic Recovery Tax Act of 1981, taxpayers may carry back a business net operating loss (NOL) against income for the 3 taxable years preceding the loss year and carry forward any remaining unused losses to the 15 years following the loss year (Code sec. 172(b)).

In an exception to this general carryover rule, present law provides a 10-year carryback and a 5-year carryforward for NOL's of banks and certain other financial institutions. Since the Federal National Mortgage Association (FNMA) is not such a financial institution, it is not eligible for the 10-year carryback treatment, and thus must use a 3-year carryback and a 15-year carryforward.

House bill

Explanation.—The House bill provides a 10-year carryback and 5-year carryforward of the NOL of the FNMA to the extent the amount of the NOL exceeds the FNMA mortgage disposition loss.

The FNMA mortgage disposition loss is the net loss from sale or exchange of mortgages, securities (not including stock), and other evidences of indebtedness to the extent that such net loss is not greater than the NOL for the taxable year. Gains and losses attributable to mortgage foreclosures will not be taken into account in determining the amount of an FNMA mortgage disposition loss. The FNMA mortgage disposition loss will continue to have a 3-year carryback and a 15-year carryforward, as under present law.

Effective date.—The provision is effective for NOL's for taxable years of the FNMA beginning after 1981. Thus, for example, an NOL for calendar 1982 in excess of the FNMA mortgage disposition loss could be carried back as far as 1972.

Revenue effect.—The provision is estimated to reduce budget receipts by $14 million in fiscal year 1983, and to increase budget receipts by $14 million in fiscal year 1984.

Senate amendment

Same as House bill.

3. Award of reasonable litigation costs where taxpayer prevails and government position was unreasonable (sec. 104 of the House bill, sec. 301 of the Senate amendment, and sec. 6673 and new sec. 7430 of the Code)

Present law

Award of litigation costs

Under the Equal Access to Justice Act (P.L. 96-481), a taxpayer who prevails in civil tax litigation in the Federal courts (other than the U.S. Tax Court) may be awarded reasonable attorney fees and other litigation costs, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

Damages for delay in Tax Court

Under present law, if a Tax Court proceeding has been instituted by the taxpayer merely for delay, the Court may award damages to the United States in an amount not to exceed $500 (Code sec. 6673).

House bill

1. General rule.—A taxpayer who prevails in civil tax litigation in the Federal courts, including the U.S. Tax Court, may be awarded reasonable attorney fees and other litigation costs.

2. Dollar limitation on award.—$50,000 (no special rule for multiple actions which involve the same taxpayer or which could be joined).

3. Prerequisite for recovery.—The taxpayer may recover litigation costs only if the position of the United States in the case was unreasonable.

4. Special rule for charities.—In litigation where the deductibility of contributions by a taxpayer to a charitable organization is the most significant issue, the organization (as well as the taxpayer) may recover costs incurred by it in the litigation if the taxpayer prevails, even though the charity is not a party to the action.

5. Effective date.—The House litigation costs provision applies to U.S. Tax Court cases begun after 1982, and to other Federal tax cases pending on, or begun after, October 1, 1981.

6. Termination date.—The House litigation costs provision will not apply to cases begun after September 30, 1984.

7. Damages for delay in Tax Court.—If U.S. Tax Court proceedings have been brought by a taxpayer primarily for delay, or if the taxpayer's position in a case is frivolous or groundless, the Court may award damages to the United States of up to $5,000, effective for Tax Court cases begun after 1981.

8. Budget effect.—The provision is estimated to increase budget outlays by less than $5 million annually in fiscal years 1982, 1983, and 1984.

Senate amendment

1. General rule.—Same as House bill.

2. Dollar limitation on award.—$25,000 (special rule for multiple actions which involve the same taxpayer or which could be joined).

3. Prerequisite for recovery.—Same as House bill, except that the Senate amendment provides explicitly that the taxpayer has the burden of establishing that the government's position was unreasonable.

4. Special rule for charities.—None (but under the Senate amendment, a taxpayer could recover costs incurred by a third party on behalf of the taxpayer).

5. Effective date.—The Senate litigation costs provision applies to civil tax litigation, including U.S. Tax Court cases, begun after May 31, 1982.

6. Termination date.—The Senate litigation costs provision will not apply to cases begun after May 31, 1987.

7. Damages for delay in Tax Court.—Same as House bill, except that the maximum damages awardable to the United States are $2,500 and that the provision is effective for Tax Court cases begun after May 31, 1982.

8. Budget effect.—The provision is estimated to increase budget outlays by less than $5 million annually in fiscal years 1982, 1983, 1984, 1985, and 1986.

4. Modification of rules as to acceleration of accrual of taxes (sec. 105 of the House bill and sec. 461(d) of the Code)

Present law

Under the accrual method of accounting, an expense generally is deductible for the taxable year in which all the events which determine the fact of the liability have occurred and the amount of the deduction can be determined with reasonable accuracy.

However, present law also provides that, if a taxing jurisdiction changes the date for imposing a deductible tax so that the tax would be deductible in an earlier period under the general rule, an accrual-basis taxpayer may not deduct the tax in the earlier period. Instead, the taxpayer may deduct the tax in the period that the tax otherwise would have been deductible as if the taxing jurisdiction had not accelerated the date for imposing the tax (Code sec. 461(d)).

House bill

Explanation.—Under the House bill, an accrual-basis taxpayer may accrue a deduction for taxes on the liability date of the tax, even if that date has been accelerated by the taxing jurisdiction. The taxpayer is not allowed to take two deductions for taxes for a taxable year in which the liability date is changed, and must account for the disallowed deduction by establishing a suspense account.

Effective date.—The provision applies to changes in tax liability dates that occur after the date of enactment. However, in the case of a State franchise tax based on income the assessment date of which has been changed, a taxpayer which first accrued such tax after the date of the change and which has consistently accrued the deduction for the tax on the new liability date could continue to accrue the deduction on the date used, without complying with the suspense account requirements under the provision.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $54 million in 1982, $111 million in 1983, $124 million in 1984, $136 million in 1985, and $150 million in 1986.

Senate amendment

No provision.

5. Treatment of certain lending or finance businesses for purposes of the tax on personal holding companies (sec. 106 of the House bill, sec. 103 of the Senate amendment, and sec. 542 of the Code)

Present law

Certain types of corporations, actively engaged in a trade or business which produces income that usually would be considered passive investment income, are excluded from the personal holding company tax provisions (Code sec. 541). Present law excludes from this tax a corporation actively engaged in a lending or finance business if the corporation has qualifying business expenses equal to 15 percent of the first $500,000 of ordinary gross income from its lending or finance business, plus 5 percent of such ordinary gross income from $500,000 to $1 million. The term "lending or finance business" is defined to include the business of making loans with maturities of not more than 60 months.

House bill

Explanation.—Effective for taxable years beginning after 1980, the House bill increases the 60-month loan maturity limitation of present law to 144 months and amends the definition of a lending or finance business qualifying for the tax exclusion to include the business of making loans in indefinite maturity credit transactions.

Effective for taxable years beginning after 1981, the House bill also modifies the business expense test of present law, to require a lending or finance company qualifying for the tax exclusion to have qualifying business expenses equal to 15 percent of the first $500,000 of ordinary gross income from the lending or finance business, plus 5 percent of such ordinary gross income in excess of $500,000. Thus, 5 percent of ordinary gross income in excess of $1 million will be added to the qualifying business expense test of present law.

Revenue effect.—The provision is estimated to reduce budget receipts by less than $5 million annually.

Senate amendment

Same as House bill.

6. Additional refunds relating to repeal of the excise tax on buses (sec. 107 of the House bill, sec. 401 of the Senate amendment, and sec. 231(c)(2) of the Energy Tax Act of 1978)

Present law

P.L. 95-618 (the Energy Tax Act of 1978) repealed the prior 10-percent manufacturers excise tax on the sale of buses, effective for buses sold after November 9, 1978. The Act also allowed a credit for or refund of the excise tax paid on buses sold after April 19, 1977 and before November 10, 1978, if the manufacturer (1) possessed evidence of sale and reimbursement of tax to the ultimate purchaser; (2) filed a claim for credit or refund with the Treasury Department before September 5, 1979; and (3) reimbursed the ultimate purchaser for the tax paid before September 5, 1979.

House bill

Explanation.—The House bill modifies the requirements for obtaining credits for or refunds of excise taxes paid on buses sold after April 19, 1977 and before November 10, 1978.

Under the bill, the date before which the ultimate purchaser must have been reimbursed is extended from September 5, 1979, to January 1, 1983. Also, the bill relaxes the present law requirement that the manufacturer must possess evidence of reimbursement of the tax to the ultimate purchaser. Under the bill, the manufacturer may make reimbursement at the same time it receives the refund, provided that the plan is satisfactory to the Treasury.

Effective date.—The provision is effective on the date of enactment.

Revenue effect.—The provision is estimated to reduce budget receipts by less than $1 million in fiscal year 1982 and by less than $1 million in fiscal year 1983.

Senate amendment

Same as House bill.

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7. Allowance of regulated investment company status to certain small business development companies (sec. 104 of the Senate amendment and sec. 851(a) of the Code)

Present law

Under present law, a regulated investment company (commonly called a "mutual fund" or "money market fund") is treated, in essence, as a conduit for tax purposes. This treatment is achieved by allowing a regulated investment company a deduction for dividends paid to its shareholders. To qualify as a regulated investment company under the Code, a company that is an investment company under the Investment Company Act of 1940 must be registered under the Act with the Securities and Exchange Commission (Code sec. 851(a)).

Under the Small Business Incentive Act of 1980 (P.L. 96-477), certain investment companies providing capital and management assistance to small businesses (called "business development companies") may elect an alternative form of regulation in lieu of registration. A business development company which elects this alternative form of regulation is precluded from qualifying as a regulated investment company under the Code, because the company did not register with the SEC under the Investment Company Act.

House bill

No provision.

Senate amendment

Explanation.—A business development company will qualify as a regulated investment company for tax purposes if it could qualify for registration under the Investment Company Act of 1940, but elects to be regulated under the Small Business Incentive Act of 1980.

Effective date.—The provision applies to taxable years ending after the date of enactment.

Revenue effect.—It is estimated that the provision will not have any effect on budget receipts.

8. Rollover of gain on FCC-ordered disposition of broadcast property (sec. 105 of the Senate amendment and sec. 1071 of the Code)

Present law

Present Code section 1071 provides for nonrecognition of gain realized on the sale or exchange of broadcast property if (1) the sale or exchange is required by a policy of the Federal Communications Commission (FCC) with respect to ownership of radio broadcasting stations, and (2) the taxpayer elects to treat the sale or exchange as an involuntary conversion or elects to reduce basis in depreciable assets. If the taxpayer elects involuntary conversion treatment, gain is not recognized to the extent the taxpayer purchases replacement property that is similar or related in service or use to the property sold or exchanged (sec. 1033).

The Internal Revenue Service has ruled that this provision does not apply when a corporation, pursuant to an FCC order, divests itself of a television station and reinvests in stock of a corporation operating a newspaper. The Service concluded that reinvestment in a newspaper company does not constitute an investment either in broadcast property within the meaning of section 1071 or in property similar or related in service or use to the television station sold or exchanged.

House bill.

No provision.

Senate amendment

Explanation.—The Senate amendment amends section 1071 to provide nonrecognition of gain in FCC-ordered divestitures where the taxpayer reinvests in stock of a corporation operating a newspaper.

Effective date.—The provision applies to an FCC-ordered divestiture if the taxpayer has reinvested the proceeds in, or exchanged such property for, other qualifying property after June 24, 1981.

Revenue effect.—The provision is estimated to reduce budget receipts by less than $10 million annually.

9. Exclusion of certain research expenses from capital expenditure limitation for small issue industrial development bonds (sec. 106 of the Senate amendment and sec. 103(b)(6) of the Code)

Present law

Interest on certain "small issue" industrial development bonds is exempt from Federal income tax if the aggregate amount of outstanding exempt small issues and capital expenditures (financed otherwise than out of the proceeds of an exempt small issue) made over a six-year period does not exceed $10 million (Code sec. 103(b)(6)).

Under present law, research or experimental expenditures incurred in connection with a taxpayer's trade or business are taken into account for purposes of determining if the small issue limitation of $10 million is exceeded, whether or not the taxpayer elects (under Code sec. 174(a)) to deduct currently such research expenses.

House bill

No provision.

Senate amendment

Explanation.–Under the Senate amendment, expenditures for research wages or for research supplies (as defined in secs. 44F(b)(2)(A) (i) or (ii)) which the taxpayer elects to deduct currently (under sec. 174(a)) are not taken into account for purposes of the $10 million capital expenditure limitation on tax-exempt small issue industrial development bonds.

Effective date.—The provision applies to research wage and supply expenditures made after the date of enactment.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $1 million in 1982, $4 million in 1983, $8 million in 1984, $13 million in 1985, and $18 million in 1986.

10. Expansion of oil shale tax credits for 1981 and 1982 (sec. 107 of the Senate amendment and sec. 48(l) of the Code)

Present law

The Energy Tax Act of 1978 provided a 10-percent energy investment tax credit for "shale oil equipment", defined for this purpose to mean equipment for producing or extracting oil from oil-bearing shale rock (*Code sec. 48(l)(7)*). Under present law, the statute expressly excludes equipment for hydrogenation, refining, or other processes subsequent to retorting from the definition of qualifying shale oil equipment.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment expands the definition of shale oil equipment for purposes of the energy investment tax credit to include equipment used in hydrogenation or other similar processes subsequent to retorting that are necessary to bring about the chemical change in the hydrocarbons necessary to make the shale oil less viscous so that it may be transported to the refinery. The amendment does not expand the definition of shale oil equipment to include equipment, including hydrogenation equipment, used to refine shale oil.

Effective date.—The provision applies to periods beginning after December 31, 1980, and before January 1, 1983.

Under present law, the energy investment credit for shale oil equipment generally is available after 1982 and before 1991 if specified affirmative commitments are undertaken with respect to qualified property that involves long-term projects of two years or more. This special affirmative commitment rule under present law does not apply to hydrogenation equipment made eligible as oil shale property under the amendment. Thus, the credit for hydrogenation equipment under the Senate amendment will not apply to any construction or acquisition after December 31, 1982.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $10 million in 1982, $9 million in 1983, and less than $5 million in 1984.

11. Modification of residential energy tax credit subsidized financing rules (sec. 108 of the Senate amendment and sec. 44C(c)(10) of the Code)

Present law

Under present law (Code sec. 44C(c)(10)), expenditures financed by Federal, State, or local grants which are exempt from Federal income tax are not eligible for the residential energy tax credit for conservation and renewable energy source expenditures. Further, any portion of qualified expenditures financed by subsidized energy financing is not eligible for the credit. Also, the expenditure limits for energy conservation expenditures ($2,000) and for renewable energy source expenditures ($10,000) are reduced by any portion of expenditures which is financed by subsidized energy financing or by nontaxable government grants.

Subsidized energy financing means financing provided under a government program if a principal purpose of the program is to provide subsidized financing for projects designed to conserve or produce energy. The term includes the direct or indirect use of bonds which are exempt from Federal income tax and which provide funds under such a program. Subsidized energy financing, however, does not include loan guarantees.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment provides an exception to the definition of subsidized energy financing applicable to the residential energy credit. Specifically, subsidized energy financing will not include loans under a program which provides a State tax credit to a financial institution in order to provide residential energy loans to individuals at a below-market rate of interest. Thus, an individual who receives financing made after December 31, 1980 under such a loan program will be eligible for any applicable Federal residential energy tax credit.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $5 million in 1982, $6 million in 1983, $6 million in 1984, $7 million in 1985, and $8 million in 1986.

12. Deferred compensation plans for State judges (sec. 109 of the Senate bill and sec. 457(e) of the Code)

Present law

Compensation deferred by an employee under an unfunded eligible State deferred compensation plan generally is excluded from the employee's income until paid or made available to the employee under the plan. However, if an unfunded deferred compensation plan fails to meet the requirements of an eligible plan, then all compensation deferred under the plan is includible in income currently unless the amounts deferred are subject to a substantial risk of forfeiture, or is includible in the first taxable year in which there is no substantial risk of forfeiture.

House bill

No provision.

Senate amendment

Explanation.—Participants in an unfunded qualified State judicial plan will not be subject to the rule requiring participants in an ineligible plan to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited.

A State's unfunded retirement plan for the exclusive benefit of its elected or appointed judges or their beneficiaries will be a qualified State judicial plan if (1) the plan has been in existence since December 31, 1978; (2) all judges eligible to benefit are required to participate and to contribute the same fixed percentage of compensation; and (3) a judge's retirement benefit under the plan is a percentage of the compensation of judges of the State holding similar positions.

In addition, the plan may not pay benefits with respect to a participant which exceed the limitations on benefits permitted under tax-qualified plans, and may not provide an option to plan participants as to contributions or benefits the exercise of which would affect the amount of the participant's currently includible compensation. Further, the plan will not be qualified if judges participating in the plan are also eligible to participate, on the basis of their judicial service, in any eligible State or local government deferred compensation plan.

Effective date.—The provision applies to taxable years beginning after 1978.

Revenue effect.—The provision is estimated to reduce budget receipts by a negligible amount.

13. Declaratory judgment for current use valuation (sec. 201 of the Senate amendment and new sec. 7479 of the Code)

Present law

If certain requirements are met, family farms and real property used in other closely held businesses may be valued for estate tax purposes at the property's current use value, rather than at its full fair market value, provided that the gross estate may not be reduced by more than a specified amount (Code sec. 2032A). If, within 10 years of the decedent's death, the property is disposed of to non-family members or ceases to be used for such purposes, estate tax benefits obtained by virtue of the reduced valuation are recaptured by means of a special "additional estate tax" imposed on the qualified heir. A special lien is imposed on the real property for the amount of the additional estate tax.

To compute the amount of the reduction in estate tax value from current use valuation and the maximum amount of the potential "additional estate tax," both the current use value and the fair market value of the qualified property must be established as of the date of death. Since the issue of the fair market value of specially valued property may not affect any presently assessable amount of tax if it is the only unresolved issue in an estate, there is no opportunity for judicial review of the issue under present law unless the entire use valuation election is disallowed.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment provides a procedure for finally determining the fair market value of specially valued property when that value is the only unresolved issue in the estate.

The amendment provides that the Internal Revenue Service's determination of value is subject to review by the U.S. Tax Court, if the executor petitions that court within 90 days after receiving notice of the Service's determination. The decision of the Tax Court is binding on all parties in future actions in which the fair market value of the specially valued property is at issue. The Tax Court's decision is reviewable in the same manner as other decisions of that court.

Effective date—The provision applies to estates of individuals dying after 1981.

Revenue effect.—The three estate tax provisions (secs. 201-203 of the Senate amendment) are estimated, in the aggregate, to reduce budget receipts by less than $5 million annually.

14. Declaratory judgment for installment payment of estate taxes (sec. 202 of the Senate amendment and new sec. 7480 of the Code)

Present law

If the value of an interest in a closely held business exceeds 35 percent of the adjusted gross estate, estate taxes attributable to the interest may be deferred for up to 14 years (annual interest payments for four years, followed by up to 10 annual installments of principal and interest) (Code sec. 6166). A special four-percent interest rate applies to deferred tax on the first $1 million of value of an interest in a closely held business (sec. 6601(j)).

An administrative determination that interests in an estate do not meet the conditions for installment payment of estate tax, or that payment of remaining installments must be accelerated under certain rules, is not subject to judicial review under present law because no tax deficiency is involved in such determination.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment establishes a procedure for obtaining a declaratory judgment in the U.S. Tax Court with respect to (1) an estate's eligibility for deferred payment of estate taxes attributable to an interest in a closely held business and (2) whether there is an acceleration of the deferred payments. (The Tax Court's determination is not reviewable by higher courts.) This remedy is available only if the executor has exhausted all available administrative remedies.

Effective date.—In the case of controversies concerning an estate's eligibility for installment payment of estate tax, the provision applies to estates of individuals dying after 1981. In the case of controversies concerning acceleration of unpaid tax, the provision applies to transactions occurring after 1981.

Revenue effect.—The three estate tax provisions (secs. 201-203 of the Senate amendment) are estimated, in the aggregate, to reduce budget receipts by less than $5 million annually.

15. Change to section 6166 "second death" provision (sec. 203 of the Senate amendment and sec. 6166 of the Code)

Present law

If the value of an interest in a closely held business exceeds 35 percent of the adjusted gross estate, estate taxes attributable to the interest may be deferred for up to 14 years (annual interest payments for four years, followed by up to 10 annual installments of principal and interest) (Code sec. 6166). A special four-percent interest rate applies to deferred tax on the first $1 million of value of an interest in a closely held business (sec. 6601(j)).

The remaining unpaid tax balance is accelerated if there is a disposition of a specified fraction of the value of a decedent's interest in the business. The transfer of the decedent's interest in a closely held business from the estate to the decedent's heirs is not considered a disposition, whether or not the interest passes to family members.

For transfers made after 1981, the Economic Recovery Tax Act of 1981 provides that the transfer of an interest in a closely held business from an heir (or subsequent transferee) at the heir's death to a family member of the heir (or subsequent transferee) is not considered a disposition.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment further expands the exception from the acceleration rules for subsequent transfers caused by the death of an heir or subsequent transferee, by eliminating the requirement that the interest in a closely held business must pass to a family member of the heir or subsequent transferee. Under the amendment, any transfer of an interest in a closely held business caused by the death of the heir (or subsequent transferee) is not considered a disposition resulting in acceleration of the unpaid tax.

Effective date.—The provision applies to transfers occurring after 1981.

Revenue effect.—The three estate tax provisions (secs. 201–203 of the Senate amendment) are estimated, in the aggregate, to reduce budget receipts by less than $5 million annually.

16. Annuities for survivors of Tax Court judges (sec. 302 of the Senate amendment and sec. 7448 of the Code)

Present law

Under the survivors annuity plan for U.S. Tax Court judges (Code sec. 7448), the annuity payable to a surviving spouse is equal to a percentage (generally 1¼ percent) of the average annual salary (whether judge's salary or compensation for other allowable Federal service) for the five consecutive years for which the judge received the largest average annual salary, multiplied by the sum of the judge's years of judicial or other allowable Federal service. However, under present law, the annuity for the surviving spouse cannot exceed 37½ percent of such average annual salary. The amount of annuity payable to a surviving dependent is based on the amount payable to a surviving spouse, subject to certain dollar limits.

House bill

No provision.

Senate amendment

Explanation.—The annuity amount payable from the Tax Court survivors annuity fund with respect to a judge dying after the date of enactment generally will be increased by (1) basing such amount upon the judge's average annual salary for the three (rather than five) consecutive years for which the judge received the largest average annual salary, and (2) increasing the maximum annuity for a surviving spouse to 40 percent (rather than 37½ percent) of the judge's average annual salary.

Subject to certain limitations, such annuity amount will also be adjusted for cost-of-living increases by increasing the amount of the annuity when the salary of Tax Court judges is increased. A survivor annuity payable with respect to a judge who rendered some portion of his or her final 18 months of service as a Tax Court judge will be increased by three percent for each five percent by which the salary of the judges is increased. (A salary increase of less than five percent is disregarded in computing increases for current and future annuities.) These cost-of-living adjustment provisions will apply with respect to salary increases taking effect after the date of enactment, except that a survivor annuity in pay status on the date of enactment will be immediately increased to reflect post-1963 salary increases.

Budget effect.—The provision is estimated to increase budget outlays by less than $50,000 annually.

17. Modification of certain Tax Court procedural rules (sec. 303 of the Senate amendment and secs. 7447, 7456, 7459, and 7463 of the Code)

Present law

The chief judge of the U.S. Tax Court may assign "small tax cases" (i.e., certain cases in which the deficiency is not more than $5,000) and certain declaratory judgment actions to commissioners (special trial judges) for hearing and decision (Code sec. 7456(c)). Special procedural rules apply to small tax cases (sec. 7463).

The findings of fact and opinion in a Tax Court case must be reported by the judge in writing (sec. 7459).

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment provides that commissioners (special trial judges) may also hear and decide regular cases (i.e., cases that are not small tax cases) if the deficiency is not more than $5,000. In addition, subject to the $5,000 limitation, the category of small tax cases is expanded to include cases involving (1) the excise tax on excess contributions to individual retirement accounts, (2) the excise taxes relating to public charities, private foundations, qualified pension, etc. plans, and real estate investment trusts, and (3) the crude oil windfall profit tax.

The amendment also provides that a Tax Court judge may in appropriate cases orally state, and record in the transcript of the proceedings, the findings of fact or opinion in the case.

Under the amendment, a retired judge of the Tax Court will be designated as a senior judge.

Effective date.—The provision which allows cases involving certain excise taxes to be treated as small tax cases is effective with respect to Tax Court cases begun after the date of enactment. The other provisions are effective on enactment.

Revenue effect.—The provision is estimated to have no effect on budget receipts.

18. Time for furnishing Form W-2 to terminated employee (sec. 304 of the Senate amendment and sec. 6051 of the Code)

Present law

Present law generally requires an employer to provide an employee with a Form W-2 no later than January 31 of the year following the year in which wages are paid. However, in the case of an employee whose employment terminates during the year, Code section 6051(a) provides that a Form W-2 must be supplied to the employee with the final payment of wages. (Treasury Regulations generally have taken the position that the employer may furnish a Form W-2 to an employee whose employment terminates prior to the close of the calendar year at any time after the termination but no later than January 31 of the following year, except where the employee requests earlier receipt.)

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment requires the employer of an employee whose employment terminates during the year to furnish the employee with a Form W-2 no later than January 31 of the following year, unless the employee requests earlier receipt. If the employee makes a written request for early receipt, then the employer must furnish the Form W-2 no later than 30 days after receipt of the request.

Effective date.—The provision applies to employees whose employment terminates after the date of enactment.

Revenue effect.—The provision is estimated to have no effect on budget receipts.

19. Withholding of State income tax from seamen's wages on a voluntary basis (sec. 305 of the Senate amendment and sec. 601 of 46 U.S.C.)

Present law

Present law requires employers to withhold Federal employment taxes from wages paid to employees. Also, employers generally are permitted (and may be required by State law) to withhold State income taxes from wages paid to employees. However, withholding of State income taxes from the wages of seamen or fishermen is prohibited by Federal law (46 U.S.C. sec. 601).

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment provides that a seaman or fisherman employed in the coastwise trade between ports in the same State may enter into a voluntary agreement with employers for withholding from wages of amounts as State income taxes.

Effective date.—The provision is effective on enactment.

Revenue effect.—The provision is estimated to have no effect on budget receipts.

20. Financing of the Reforestation Trust Fund (sec. 403 of the Senate amendment and sec. 303(b)(1) of P.L. 96-451)

Present law

Receipts from lumber and plywood import duties are appropriated to the Reforestation Trust Fund to supplement appropriations for reforestation and timber stock improvement on publicly owned national forests. The Secretary of the Treasury is required to transfer receipts from these tariffs to the Reforestation Trust Fund in amounts up to $30 million for each fiscal year during the six-year period from October 1, 1979 through September 30, 1985.

For each of fiscal years 1981 through 1985, appropriations have been authorized from the trust fund, but only to the extent these estimated costs exceed amounts appropriated out of the general fund for these purposes.

House bill

No provision.

Senate amendment

Explanation.—Instead of transferring $30 million to the trust fund from lumber and plywood tariff receipts, the Secretary of the Treasury will be required to transfer the same amount from 65 percent of the amounts received from sales of trees or forest products located on National Forest System lands. Existing commitments for uses of these funds will not be affected.

Effective date.—The provision takes effect January 1, 1982.

Revenue effect.—The provision is estimated to have no effect on budget receipts.

21. Due date for energy task force study on oil supply disruption (sec. 405 of the Senate amendment)

Present law

An interagency task force is understood to be studying the threat of a petroleum supply disruption on the Nation's economy and ways of limiting the effects of any such disruption. There is no provision in current law, however, which would require this task force to submit a report on its study to the Congress at any particular date.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment directs the Secretary of the Treasury to submit to the Congress by June 15, 1982, the report of the interagency task force evaluating the alternative fiscal policies which could be used to help mitigate the adverse economic effects of an oil supply disruption.

Effective date.—The provision is effective on the date of enactment.

Revenue effect.—The provision is estimated to have no effect on budget receipts.

22. Delay of Bankruptcy Tax Act effective date relating to discharge of indebtedness (sec. 406 of the Senate amendment and sec. 7(a)(2) of the Bankruptcy Tax Act of 1980)

Present law

The Bankruptcy Tax Act of 1980 (P.L. 96-589) was a comprehensive revision of the income tax rules for bankruptcy, insolvency, and debt discharge, following the 1978 repeal by the Congress of the former tax rules.

The 1980 Act provides that no amount is included in gross income by reason of a debt discharge in a bankruptcy case or insolvency. Under the Act, the amount of debt discharge first reduces net operating losses or certain other tax attributes of the debtor company before reducing basis in assets. To provide flexibility, the Act allows the debtor instead first to reduce basis of depreciable property (Code secs. 108, 1017).

In general, the Act's provisions on debt discharge apply to bankruptcy cases beginning after 1980, and to other discharges (outside bankruptcy) occurring after 1980. However, the rule requiring that the amount of debt discharge in bankruptcy or insolvency must first be applied to reduce NOL's, or basis in depreciable assets, was postponed (for one additional year) until bankruptcy cases beginning after 1981 or, in the case of an insolvent debtor outside bankruptcy, where the discharge occurred after 1981.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment postpones, for an additional three months, the 1980 Act rule relating to the tax consequences of debt discharge in bankruptcy cases or insolvency. Thus, the new rule would apply to bankruptcy cases commencing on or after April 1, 1982, and in the case of a debtor outside bankruptcy which is insolvent at the time of the debt discharge, to debt discharges occurring on or after April 1, 1982.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by a negligible amount in 1982, less than $1 million in 1983, less than $1 million in 1984, and negligible amounts in 1985 and 1986.

23. Amendments to the Mortgage Subsidy Bond Tax Act (sec. 408 of the Senate amendment and secs. 103(b)(4) and 103A(i) of the Code)

Present law

The Mortgage Subsidy Bond Tax Act of 1980 was enacted generally to direct the subsidy from the use of tax-exempt bonds for housing to those individuals who have the greatest need for the subsidy, to increase the efficiency of the subsidy, and to reduce the overall revenue loss to the Federal Government from the use of tax-exempt bonds for housing.

Present law provisions affected by H.R. 4717 are summarized below.

Single-family mortgage bonds

Arbitrage limitations on mortgage investments.—The effective interest rate on mortgages financed with tax-exempt mortgage bonds may not exceed the yield on the issue by more than one (1.0) percentage point.

Loss on reserve liquidations.—The dollar amount of reserves must be reduced as mortgages are paid off, since higher reserves no longer are needed to secure the repayment of debt service on the issue.

Industrial development bonds for multi-family rental projects

Definition of "low or moderate income".—Tax-exempt industrial development bonds may be used for multi-family rental projects only if 20 percent of the units (15 percent in targeted areas) are occupied by individuals of "low or moderate income", as defined in section 8 of the United States Housing Act of 1937.

Duration of targeting requirement.—The 20-percent requirement (15 percent in targeted areas) must be met for 20 years with respect to any obligations issued before January 1, 1984.

House bill

No provision.

Senate amendment

Single-family mortgage bonds

Arbitrage limitations on mortgage investments.—The 1.0 percent limit is replaced by a limit which varies with the size of the issue, beginning at one and one-sixteenth (1 1/16) percentage points but not to exceed one and one-eighth (1 1/8) percentage points. The limitation is 1.0625 percentage points plus 0.01 percentage point (not to exceed 1.125 percentage points) for each $10 million that the aggregate face amount of the issue is less than $100 million.

Loss on reserve liquidations.—The rule requiring liquidation of nonmortgage investments with a yield higher than the issue yield will not apply to the extent that it would require disposition of any nonmortgage investment resulting in a loss in excess of the amount which could be earned from investments in qualified mortgages. However, the yield will continue to apply if the sale of such nonmortgage investments would not result in a loss when the investments are sold to meet the liquidation rule. Similarly, the rule will apply if loss assets appreciate so that they would not result in such loss.

Industrial development bonds for multi-family rental projects

Definition of "low or moderate income".—The Senate amendment provides a separate definition of "low or moderate income", by adopting the definition of "low or moderate income" under the section 8 program except that the applicable percentage will be 80 percent of area median income (regardless of the percentage used under the section 8 program).

Duration of targeting requirement.—The Senate amendment also provides that the requirement that 20 percent of the rental units (15 percent in targeted areas) must be occupied by individuals of low or moderate income applies from the date that the first unit in the project is occupied and continues until the later of (1) 10 years after one-half of the units in the project are first occupied, (2) a date when 50 percent of the maturity of the bond has been exceeded, or (3) the date on which any section 8 assistance terminates.

Effective date.—The provision is effective as if it had been included in the Mortgage Subsidy Bond Tax Act of 1980.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $1 million in 1982, $4 million in 1983, $9 million in 1984, $15 million in 1985, and $22 million in 1986.

24. Reduction in excise tax on wagers and occupational tax on wagering in States authorizing wagering (sec. 409 of the Senate amendment and secs. 4401 and 4411 of the Code)

Present law

Under present law, a two-percent excise tax is imposed on the amount of wagers which are (1) placed with a person in the business of accepting wagers on the outcome of a sports event or contest, (2) with respect to a sporting event or contest placed in a wagering pool conducted for profit, or (3) placed in a lottery conducted for profit (including the numbers game, policy, and similar types of wagering). The tax applies to "off-track" betting authorized by State law. However, the tax is not imposed on (1) wagers placed with a parimutuel wagering enterprise licensed under State law, (2) wagers placed in coin-operated gaming devices, such as slot machines, or (3) State-conducted wagering, such as sweepstakes and lotteries (Code secs. 4401–4405, 4421–4424).

Under present law, an occupational tax of $500 per year is imposed on each person who is in the business of accepting wagers and on each person who is engaged in receiving wagers for or on behalf of such person (secs. 4411–4414).

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment reduces the two-percent excise tax on certain wagers to 0.25 percent for wagers authorized by State law. Also, under the amendment, the $500 occupational tax is reduced to $50 in the case of persons authorized by State or local law to accept wagers in a wagering business authorized by State law. In States where wagering is illegal, the two-percent excise tax and $500 occupational tax will continue to apply.

Effective date.—The provision applies to taxable periods beginning after 1981.

Revenue effect.—The provision is estimated to reduce fiscal year budget receipts by $8 million in 1982, $14 million in 1983, $14 million in 1984, $16 million in 1985, and $17 million in 1986.

25. Limitation on use of small issue industrial development bonds (sec. 410 of the Senate amendment and sec. 103(b)(6) of the Code)

Present law

As an exception to the general rule of taxability of interest paid on industrial development bonds, present law provides an exemption for interest on issues of up to $1 million if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property. The limitation may be increased to $10 million for projects where the aggregate amount of outstanding exempt small issues and capital expenditures (financed otherwise than out of the proceeds of an exempt small issue) made over a six-year period does not exceed $10 million (Code sec. 103(b)(6)).

Under present law, there are no restrictions on the types of facilities or purposes for which the proceeds of qualified "small issues" of industrial development bonds may be used, other than the requirement that the proceeds be used for land or depreciable property and not for residential real property for family units. In addition, there are no general requirements for reporting information concerning the issue to the Treasury Department.

House bill

No provision.

Senate amendment

Explanation.—Under the amendment, interest on small issue industrial development bonds is subject to Federal income tax if any portion of the proceeds is to be used for any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), ski resort, racquet sports facility (including handball and racquet ball courts), hot tub facility, suntan facility, or racetrack. The Senate amendment does not affect the present-law exemption of interest on industrial development bonds where the proceeds are used for certain facilities, including sports facilities available on a regular basis for public use.

Also, under the amendment, the issuer of any tax-exempt small issue industrial development bond must report the following to the Treasury: any purchaser of more than 25 percent of the face value of the issue, (2) the underwriter (if any), (3) the interest rate, (4) the issue's rating (if any), (5) the face amount, (6) a description of any facility to be financed from the proceeds of the issue and its location, (7) each user of a facility financed from the proceeds of the issue, (8) bond counsel, and (9) any other information the Treasury determines appropriate.

Effective date.—The provision applies to obligations issued after the date of enactment.

Revenue effect.—The provision is estimated to increase fiscal year budget receipts by $2 million in 1982, $9 million in 1983, $22 million in 1984, $38 million in 1985, and $58 million in 1986.

B. Other Provisions

1. Use of certain amounts transferred to State unemployment funds—Reed Act (sec. 201 of the House bill, sec. 501 of the Senate amendment, and sec. 903(c) of the Social Security Act)

Present law

Section 903 of the Social Security Act, commonly referred to as the Reed Act, provides for the transfer of any excess Federal Unemployment Tax Act (FUTA) receipts to the individual State accounts in the unemployment trust fund. Each State's share is proportionate to its share of wages subject to FUTA taxes. Excess funds have occurred only three times since the passage of the Reed Act—in 1956, 1957, and 1958. Current unobligated State Reed Act account balances total some $25 million.

Reed Act funds may be used by the States either to pay unemployment benefits or for administrative purposes. However, under present law, authority to use funds credited in 1956 for administrative purposes expired on July 1, 1981; and authority to use funds credited in 1957 and 1958 for administrative purposes will expire on July 1, 1982 and July 1, 1983, respectively.

House bill

Explanation.—The House bill extends for 10 years the authority for States to use Reed Act funds for administrative purposes. Also, the bill permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

Budget effect.—The provision is estimated to have no effect on budget outlays.

Senate amendment

Same as House bill.

2. Removal of age limitation for exclusion from FUTA of wages paid to student interns (sec. 202 of the House bill, sec. 502 of the Senate amendment, and sec. 3306(c)(10)(C) of the Code)

Present law

Under current law, wages paid to a student under age 22 who is enrolled full-time in a work-study or internship program are exempted from the Federal unemployment tax (FUTA) if the work performed is an integral part of the student's academic program (Code sec. 3306(c)(10)).

House bill

Explanation.—The House bill exempts from FUTA tax any wages paid to student interns, regardless of age, for work that is an integral part of the student's academic program, effective for service performed after the date of enactment.

Revenue effect.—The provision is estimated to reduce budget receipts by less than $500,000 annually.

Senate amendment

Same as House bill.

3. Extension of exclusion from FUTA of wages paid to certain alien farmworkers (sec. 203 of the House bill, sec. 503 of the Senate amendment, and sec. 3306(c)(19) of the Code)

Present law

Under the Immigration and Nationality Act, residents of foreign countries who do not intend to abandon such residency may be admitted to the U.S. to work for a temporary period of time during peak agricultural crop seasons. Prior to 1982, wages paid to such alien farmworkers were excluded from Federal unemployment (FUTA) taxes.

House bill

Explanation.—The House bill extends for two years—from January 1, 1982 to January 1, 1984—the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes.

Revenue effect.—The provision is estimated to reduce budget receipts by $1 million in fiscal year 1982 and $1 million in fiscal year 1983.

Senate amendment

Same as House bill.

4. Unemployment benefits paid to ex-Servicemembers (sec. 204 of the House bill and sec. 2405 of P.L. 97-35)

Present law

Section 2405 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) established new requirements for the payment of benefits to ex-Servicemembers under the Unemployment Compensation for Ex-Servicemembers (UCX) program. Under the new rules, benefits are limited to individuals who (1) have 365 or more days of military service; (2) were discharged or released under honorable conditions; (3) did not resign or voluntarily leave the service (i.e., they could not have been able to reenlist); and (4) were not released or discharged "for cause" as defined by the Department of Defense. These new requirements apply to individuals who left Federal military service on or after July 1, 1981, but only for weeks of unemployment that began on or after August 13, 1981, the date of enactment of P.L. 97-35.

House bill

Explanation.—The House bill substitutes for the requirements enacted in P.L. 97-35, new unemployment compensation eligibility requirements for individuals separated from the military. The provision (1) limits unemployment benefits to ex-Servicemembers who have served 730 or more continuous days in the military and who have been discharged under other than dishonorable conditions; (2) requires a four-week waiting period between the week in which the individual is separated and the week in which he or she first becomes entitled to compensation; and (3) limits an eligible ex-Servicemember's benefits to 13 weeks.

Effective date.—The provision is effective for separations on or after July 1, 1981, but only for benefits payable after the date of enactment.

Budget effect.—The provision is estimated to increase fiscal year budget outlays by $38 million in 1982, $63 million in 1983, $51 million in 1984, $50 million in 1985, and $46 million in 1986.*

Senate amendment

No provision.

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* These figures are more recent CBO estimates than those used for the provision in the Ways and Means Committee report on H.R. 4961 (H. Rept. 97-404, Dec. 14, 1981).

5. Change in SSI accounting period (sec. 205 of the House bill and sec. 1611(c) of the Social Security Act)

Present law

Under the Supplemental Security Income (SSI) law in effect through March 1982, computation of SSI eligibility and amount of benefits are based on the income and resources for the current calendar quarter.

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) requires that, after March 1982, the computation period for determination of eligibility and amount of SSI benefits will be on a monthly basis. Benefits, generally, will be determined on a monthly retrospective basis. That is, the amount of the SSI benefit for any month will be determined on the basis of the individual's or couple's income, resources, and other circumstances in the preceding month. The SSI payment received in June 1982, for example, will not reflect the amount of any other income the recipient had in June; rather, it will reflect the amount of any such income the person received in April.

House bill

Explanation.—Under the House bill, a one-month "prospective" accounting period in SSI is substituted for the "retrospective" accounting period required by P.L. 97-35 to go into effect in April.

Effective date.—The provision is effective with respect to months after the first calendar quarter which ends more than two months after the month in which the provision is enacted.

Budget effect.—The provision is estimated to reduce fiscal year budget outlays by $40 million in 1982, $25 million in 1983, $30 million in 1984, $30 million in 1985, and $30 million in 1986.*

Senate amendment

No provision.

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* These figures are more recent CBO estimates than those used for the provision in the Ways and Means Committee report on H.R. 4961 (H. Rept. 97-404, Dec. 14, 1981).

6. Treatment of unnegotiated checks under the SSI program (sec. 206 of the House bill and sec. 1631(a)(1)(2) of the Social Security Act)

Present law

More than one-half of the States have agreements with the Social Security Administration to include State-funded supplementation of the Federal SSI benefit in the check issued by the U.S. Treasury. The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) amended title XVI (SSI) of the Social Security Act to establish a process for crediting States with their share (included as State supplementation) of benefit checks remaining unnegotiated for more than 180 days. It is not clear whether this legislation applies to SSI checks which are entirely State financed.

Some SSI recipients have social security or other income which exceeds the Federal SSI level, so that they qualify only for a State supplementation of the Federal SSI benefit standard. That is, the benefits in such instances are entirely State financed, even though paid by Treasury check.

House bill

Explanation.—The House bill clarifies the authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks.

Effective date.—The provision will be effective on October 1, 1982.

Budget effect.—The provision is estimated to increase budget outlays by less than $500,000 annually.

Senate amendment

No provision.

7. Collection of administrative costs for non-AFDC child support enforcement (sec. 207 of the House bill and sec. 454(19) of the Social Security Act)

Present law

States are required to provide child support collection services to non-AFDC families requesting assistance. Prior to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), States had the option of charging non-AFDC families a reasonable fee and then retaining a portion of any child support collection to pay for administrative expenses not covered by the fee. Under the Reconciliation Act provisions, States retain the option of charging non-AFDC recipients a reasonable application fee, but are required to charge a fee equal to 10 percent of the support collected. The 10 percent fee must be charged against the absent parent and added to the amount to be collected.

House bill

Explanation.—The House bill repeals the provisions enacted in P.L. 97-35 which would require States, in cases involving non-AFDC families, to charge any absent parent who is obligated to pay child support through the State Child Support Enforcement Agency a fee equal to 10 percent of the child support payment. The House bill restores the law in effect prior to P.L. 97-35 which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. The House bill also retains, as a State option, the authority to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Effective date.—The provision is effective as of October 1, 1981.

Budget effect.—The provision is estimated to have no effect on budget outlays.

Senate amendment

No provision.

8. Technical amendments to child support enforcement provisions in P.L. 97-35 (sec. 208 of the House bill)

Present law

Several inaccurate references were included in the child support enforcement provisions of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

House bill

Explanation.—The House bill makes several technical corrections in the child support enforcement provisions contained in P.L. 97-35, including the correction of inaccurate references.

Effective date.—The provision is effective as of October 1, 1981.

Budget effect.—The provision is estimated to have no effect on budget outlays.

Senate amendment

No provision.

9. Technical amendments to social services and foster care provisions in P.L. 97-35 (sec. 209 of the House bill and secs. 471(a)(10), 1101, 1108, and 2003(b) of the Social Security Act)

Present law

1. The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) unintentionally repealed the authority for Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to finance social services from funds received under the cash assistance titles, and provided that these territories are eligible for funds for social services only under the title XX social services block grant.

2. The formula for allocating funds to the States and territories under the title XX social service block grant program could be interpreted in such a way that a portion of the funds are not available for allocation to any jurisdiction.

3. There are inconsistencies between titles XI and XX of the Social Security Act as to jurisdictions eligible for title XX funds.

4. P.L. 97-35 incorrectly referenced child day care instead of foster care standards in the requirements that States have standards for foster family home or child care institutions under their title IV-E foster care program.

House bill

The House bill makes the following technical corrections:

(1) Restores the option to Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to utilize funds available under the cash assistance titles for social services.

(2) Insures that all the title XX funds under the ceiling are available for allotment to the States and other jurisdictions.

(3) Makes the title XI definition of the term "State," as it pertains to title XX funding, consistent with the list of jurisdictions cited in title XX as eligible for funds under the allotment formula.

(4) Incorporates into the title IV-E foster care law the same standards for foster care as were previously required by reference to the standards in title XX which were in effect prior to P.L. 97-35.

Effective date.—The provision is effective as of October 1, 1981.

Budget effect.—The provision is estimated to have no effect on budget outlays.

Senate amendment

No provision.

10. One-year extension of existing one-year FUTA exemption for certain fishermen (sec. 402 of the Senate amendment and sec. 3306(c) of the Code)

Present law

Services performed by members of the crew on boats engaged in catching fish or other forms of aquatic animal life are exempt from FICA tax if their remuneration is a share of the boat's catch (or cash proceeds from the sale of a share of the catch) and if the crew of such boat normally is made up of fewer than ten individuals. In addition, the remuneration received by those fishing boat crew members whose services are exempt for purposes of FICA is not considered to be wages for purposes of income tax withholding. Furthermore, the Economic Recovery Tax Act of 1981 (P.L. 97-34) provided that wages paid during 1981 to certain fishing boat crew members who are self-employed for purposes of FICA are not subject to FUTA taxes.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment extends for one year (through 1982) the FUTA tax exemption for wages paid to fishermen whose remuneration is exempt for purposes of FICA.

Effective date.—The provision applies to remuneration paid during 1982.

Revenue effect.—The provision is estimated to reduce budget receipts by a negligible amount in fiscal year 1982 and by less than $1 million in fiscal year 1983.

11. Eligibility requirements for trade adjustment assistance (sec. 404 of the Senate amendment and sec. 2514(a)(2)(A) of P.L. 97-35)

Present law

Under prior law, workers could be eligible for trade adjustment assistance (TAA) benefits if increased imports "contribute importantly" to any injury sustained by the firm for which they work which results in unemployment. Pursuant to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), the "contribute importantly" standard was changed on February 9, 1982 to require a higher standard of causation between imports and resulting unemployment. As of that date, workers have been eligible for benefits only if the increased imports are a "substantial cause" of injury to the firm and the resulting unemployment.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment amends P.L. 97-35 by maintaining the "contribute importantly" causation standard through the end of the trade adjustment assistance program, the end of fiscal year 1983. The provision is effective on enactment.

Budget effect.—The provision is estimated to increase budget outlays by an indeterminate amount, but no dollar estimate of the budgetary impact is available because the extent of difference between the existing standard and that in the Senate amendment is largely dependent on interpretations by the administering agency.

12. Medicare enrollment period for individuals formerly eligible for benefits under the Public Health Service Act (sec. 407 of the Senate amendment and sec. 322(a) of the Public Health Service Act)

Present law

Individuals who voluntarily choose to enroll in the Supplementary Medical Insurance (Part B) portion of the Medicare program may enroll during one of two periods: (1) their initial enrollment period, which is based on the date when such individuals meet the eligibility requirements for enrollment, or (2) during a general enrollment period, during which persons who failed to enroll during their initial period or whose enrollment has been terminated may first enroll or re-enroll. Individuals who elect to enroll after their initial opportunity to do so, or who re-enroll after a termination of coverage, are required (with certain minor exceptions) to pay increased monthly premiums for delinquent enrollment of 10 percent for each 12 months of delay in enrollment or re-enrollment.

House bill

No provision.

Senate amendment

Explanation.—The Senate amendment establishes a special Part B enrollment period from April 1, 1982 through December 31, 1982 for certain individuals (generally elderly merchant seamen) who were formerly eligible for benefits under section 322(a) of the Public Health Services Act (between March 10, 1981 and through September 30, 1981) and who were eligible but not enrolled in the Medicare Part B program. No portion of any period during which such persons were entitled to benefits under the Public Health Service Act counts in determining any increase in monthly premiums for delinquent enrollment. Under the amendment, Part B coverage for persons electing to enroll during the special enrollment period begins January 1, 1982.

Effective date.—The provision is effective on the date of enactment.

Budget effect.—The provision is estimated to increase budget outlays by about $500,000 annually.

III. COMPARATIVE BUDGET EFFECTS

A. Estimated Budget Effects of H.R. 4717 as Passed by the House (March 16, 1982)

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Title I—Tax Provisions:					
Sec. 102.—One-year postponement of effective date for LIFO reserve recapture rule	−15	−260	(1)	(1)	(1)
Sec. 103.—Modification of net operating loss rule for the Federal National Mortgage Association		−14	+14		
Sec. 104.—Award of certain litigation costs	(a)	(a)	(a)		
Sec. 105.—Modification of rules as to acceleration of accrual of taxes	−54	−111	−124	−136	−150
Sec. 106.—Treatment of certain lending or finance businesses for purposes of the tax on personal holding companies	(2)	(2)	(2)	(2)	(2)
Sec. 107.—Additional refunds relating to repeal of the excise tax on buses	(3)	(3)			
Total, Title I Provisions [4]	**−73**	**−389**	**−113**	**−139**	**−153**

[1] Negligible loss.
[2] Loss of less than $5 million.
[3] Loss of less than $1 million.
[4] For budget scorekeeping purposes, these totals include $3 million for each provision estimated at "less than $5 million," and $1 million for the provisions estimated at "less than $1 million." These totals do not take into account the outlay effects of the Title I provision (see also footnote (a)).
[a] Increases outlays by less than $5 million.

A. Estimated Budget Effects of H.R. 4717 as Passed by the House—Continued

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Title II — Unemployment Compensation and Welfare Provisions:					
Sec. 201.—Extension of Reed Act					
Required budget authority					
Estimated outlays					
Sec. 202.—Removal of age limitation for exclusion from FUTA of wages paid to student interns					
Revenue and budget authority	(*)	(*)	(*)	(*)	(*)
Estimated outlays					
Sec. 203.—Extension of exclusion from FUTA of wages paid to certain alien farmworkers					
Revenue and budget authority	−1	−1			
Estimated outlays					
Sec. 204. — Unemployment benefits paid to ex-Servicemembers					
Required budget authority	38	63	51	50	46
Estimated outlays	38	63	51	50	46
Sec. 205.—Change in SSI accounting period					
Required budget authority	−40	−25	−30	−30	−30
Estimated outlays	−40	−25	−30	−30	−30
Sec. 206.—Treatment of unnegotiated checks under SSI program					
Required budget authority	(*)	(*)	(*)	(*)	(*)
Estimated outlays	(*)	(*)	(*)	(*)	(*)
Sec. 207.—Collection of administrative costs for non-AFDC child support enforcement					
Required budget authority					
Estimated outlays					

A. Estimated Budget Effects of H.R. 4717 as Passed by the House—Continued

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Sec. 208.—Technical amendments to child support enforcement provisions in P.L. 97-35					
Required budget authority					
Estimated outlays					
Sec. 209.—Technical amendments to social services and foster care provisions in P.L. 97-35					
Required budget authority					
Estimated outlays					
Totals, Title II Provisions:					
Revenue and budget authority	−1	−1			
Required budget authority	−2	38	21	20	16
Estimated outlays	−2	38	21	20	16

*Less than $500,000.

B. Estimated Budget Effects of H.R. 4717 as Passed by the Senate

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Title I—Income Tax Provisions:					
Sec. 101.—One-year postponement of effective date for LIFO reserve recapture rule	−15	−260	(3)	(3)	(3)
Sec. 102.—Modification of net operating loss rule for the Federal National Mortgage Association		−14	+14		
Sec. 103.—Treatment of certain lending or finance businesses for purposes of the tax on personal holding companies	(2)	(2)	(2)	(2)	(2)
Sec. 104.—Allowance of regulated investment company status to certain small business development companies					
Sec. 105.—Rollover of gain on FCC-ordered disposition of broadcast property	(4)	(4)	(4)	(4)	(4)
Sec. 106.—Exclusion of certain research expenses from capital expenditure limitation for small issue industrial development bonds	−1	−4	−8	−13	−18
Sec. 107.—Expansion of oil shale tax credits for 1981 and 1982	−10	−9	(2)		
Sec. 108.—Modification of residential energy tax credit subsidized financing rules	−5	−6	−6	−7	−8
Sec. 109.—Deferred compensation plans for State judges	(3)	(3)	(3)	(3)	(3)

B. Estimated Budget Effects of H.R. 4717 as Passed by the Senate—Continued

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Title II—Estate Tax Provisions:					
Sec. 201.—Declaratory judgment for current use valuation	(2)	(2)	(2)	(2)	(2)
Sec. 202.—Declaratory judgment for installment payment of estate taxes					
Sec. 203.—Change to section 6166 "second death" provision					
Title III — Administrative Provisions:					
Sec. 301.—Award of certain litigation costs	(a)	(a)	(a)	(a)	(a)
Sec. 302.—Annuities for survivors of Tax Court judges	(b)	(b)	(b)	(b)	(b)
Sec. 303.—Modification of certain Tax Court procedural rules					
Sec. 304.—Time for furnishing Form W-2 to terminated employee					
Sec. 305.—Withholding of State income tax from seamen's wages on a voluntary basis					
Title IV—Miscellaneous Provisions:					
Sec. 401.—Additional refunds relating to repeal of the excise tax on buses	(1)	(1)			
Sec. 402.—One-year extension of existing one-year FUTA tax exemption for certain fishermen	(3)	(1)			
Sec. 403.—Financing of the Reforestation Trust Fund					
Sec. 404.—Eligibility requirements for trade adjustment assistance	(c)	(c)			
Sec. 405.—Due date for energy task force study on oil supply disruption					

B. Estimated Budget Effects of H.R. 4717 as Passed by the Senate—Continued

[Millions of dollars]

Provision	Fiscal year—				
	1982	1983	1984	1985	1986
Sec. 406.—Delay of Bankruptcy Tax Act effective date relating to discharge of indebtedness	(3)	(1)	(1)	(3)	(3)
Sec. 407.—Medicare enrollment period amendments	(d)	(d)	(d)	(d)	(d)
Sec. 408.—Amendments to the Mortgage Subsidy Bond Tax Act	−1	−4	−9	−15	−22
Sec. 409.—Reduction in excise tax on wagers and occupational tax on wagering in States authorizing wagering	−8	−14	−14	−16	−17
Sec. 410.—Limitation on use of small issue IDBs	+2	+9	+22	+38	+58
Title V — Unemployment Compensation Provisions:					
Sec. 501.—Extension of Reed Act					
Sec. 502.—Removal of age limitation for exclusion from FUTA of wages paid to student interns	(5)	(5)	(5)	(5)	(5)
Sec. 503.—Extension of exclusion from FUTA of wages paid to certain alien farmworkers	−1	−1			
Total Revenue Effects[6]	**−51**	**−317**	**−16**	**−24**	**−18**

[1] Loss of less than $1 million.
[2] Loss of less than $5 million.
[3] Negligible loss.
[4] Loss of less than $10 million.
[5] Reduces budget receipts by less than $500,000.
[6] For budget scorekeeping purposes, these totals include $1 million for each of the provisions estimated at "less than $1 million," $3 million for each provision estimated at "less than $5 million," and $5 for each provision estimated at "less than $10 million." These totals do not take into account the outlay effects of the bill (see also footnotes (a)–(d)).
[a] Increases outlays by less than $5 million.
[b] Increases outlays by less than $50,000.
[c] Increases outlays by an indeterminate amount.
[d] Increases outlays by about $500,000 annually.

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